

FINANCIAL SERVICES TRIBUNAL
Practice Direction Pertaining to Representatives
Before the Financial Services Tribunal

Effective September 2nd 2010

WHEREAS section 10 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 (the “SPPA”) states that a party to any proceeding governed by the SPPA – such as hearings and appeals before the Financial Services Tribunal (the “Tribunal”) – has a right to be “represented by a representative”;

AND WHEREAS section 1 of the SPPA gives a restrictive definition to the term representative, namely, “a person authorized under the *Law Society Act* to represent a person in that proceeding”;

AND WHEREAS section 26.1 of the *Law Society Act*, R.S.O. 1990, c. L.8 prohibits anyone “other than a licensee whose licence is not suspended” from “practising law or providing legal services” in Ontario, subject to the by-laws adopted by Convocation;

AND WHEREAS subsection 1(6) of the *Law Society Act* states that someone who “represents a person before an adjudicative body” such as the Tribunal “provides legal services” within the meaning of the prohibition contained in section 26.1;

AND WHEREAS parts V to VII of By-law 4 adopted by Convocation recognise a number of well-circumscribed situations in which a person is authorised to practice law or provide legal services without a licence, notwithstanding the prohibition contained in section 26.1 of the *Law Society Act*;

AND WHEREAS the *Rules of Practice and Procedure for Proceedings Before the Financial Services Tribunal* (the “Rules”) incorporate the term “representative” in a number of its provisions, such as rules 9 (“Service”), 11 (“Confidential Documents”), 17 (“Notice of Pre-hearing Conference”), 18 (“Settlements”), 40 (“Parties Acting in a Representative Capacity”), 45 (“Criteria for Costs to Parties”), 47 (“Cost Assessment Practice Directions”) and 49 (“Procedure for Requesting Review”);

AND WHEREAS the Rules do not specify who is authorised to act as a “representative” for the purposes of a proceeding before the Tribunal, and Rule 3 defines this term as “counsel or an agent for a party acting on behalf of a person”;

AND WHEREAS the Rules apply to all proceedings before the Tribunal subject to any Practice Direction issued under Rule 2.04;

THEREFORE, pursuant to Rule 2.04, the Tribunal issues the following Practice Direction in order to specify who is authorised to appear before the Tribunal on behalf of a party in a manner that is consistent with the SPPA, the *Law Society Act* and By-law 4.

1. In any proceeding before the Tribunal, a party may be self-represented or may be represented by someone licensed under the *Law Society Act* to represent a person before an adjudicative body or by someone exempted from the licensing requirements of said act.
2. The definition of the term “representative” contained in Rule 3 is abolished and replaced with the following:

“representative” means a person licensed under the Law Society Act to represent someone before an adjudicative body or a person exempted from the licensing requirements of said act